

REMARKS/ARGUMENTS

Claims 1 through 15 remain in this application. Applicants have amended Claims 1, 5, 11 and 15 and have cancelled Claim 4. In presenting these amendments, the Applicants have taken care to include in the independent Claims the respective limitation from the cancelled dependent Claim. Applicants respectfully request that the Examiner reconsiders this application in view of the above amendments and these remarks.

Claim rejection – 35 USC § 112

Claim 15 is rejected under 35 U.S.C. §112, first paragraph, failing to comply with the written description requirement. Claim 15 is hereby amended to cancel the limitation that "a plastic having minimal vapor emissions during a welding process". Reconsideration and withdrawal of the 35 U.S.C. §112, first paragraph, rejection of claim 15 are respectfully requested.

Double Patenting

Applicants are thankful to the Examiner for pointing out Applicants' mistake of filing a terminal disclaimer over Mejia. As such, Applicants' file a new terminal disclaimer over Maggert, since Maggert is owned by Motorola. Assignment of the instant application to Motorola Inc. is recorded at Reel/Frame 014247/0261. Accordingly, Applicants respectfully request that the Examiner reconsider the rejection in view of only Mejia.

Claim rejection – 35 USC § 103

Additionally, even though the Applicants have amended the Claims as mentioned above, Applicants note that the Examiner is incorrect in his interpretation of the cited art. The Examiner has rejected Claims 1 – 10 under 35 U.S.C. 103(a) as being obvious over Mejia (U.S. Patent 4,347,294).

Mejia discloses a storage battery assembly. However, as recognized by the Examiner Mejia does not expressly teach that the side bend of the tab comprises a cut out, or that the outer surfaces of the Y – shaped housing comprises concave surfaces. Further, the Examiner also admits that Mejia does not expressly teach that the post couples to the lance when the lance is bent downward toward the housing. Office action, page 3. The Examiner purports to find this limitation to be obvious to one of ordinary skill in the art at the time the invention was made because the artisan would be motivated to use a lance structure that is capable of being bent downward. Applicants respectfully disagree with the Examiner's opinion and traverse the rejections.

Referring to claim 1 (as the limitation of claim 4 has been added to claim1), the Examiner states that “..., the claimed limitations represent changes in shape of the apparatus of Mejia”. Further, the Examiner also states “..., such changes in shape are not considered to patentably distinguish over a reference unless a new or unexpected result is shown (MPEP 2144.04).” Applicants disagree with the Examiner's assertion. MPEP 2144.04 outlines situations where a shape having a mechanical function is considered to be patentable. MPEP 2144.04, *In re Seid*,

161 F.2d 229, 73 USPQ 431 (CCPA 1947). MPEP 2144.04 also states that “[w]hile recognizing that in some cases the particular shape of a product is of no patentable significance, the Board held in this case the shape ... is important because it results in a product which is distinct from the reference product....”. MPEP 2144.04, *Ex parte Hilton, 148 USPQ 356 (Bd. App. 1965)*. Thus, it is clear that changes in shape are considered to be patentable. Additionally, nowhere in MPEP 2144.04 is there any discussion that changes in shape are considered patentable only if it results in a new or unexpected result.

Moreover, referring to MPEP 2144.04, if the applicant has demonstrated the criticality of a specific limitation, it would not be appropriate to rely solely on case law as the rationale to support an obviousness rejection. Applicants clearly state [on page 6, lines 9 – 13 of Applicant’s description] that if the cut out were not present, the tab would be required to slide over the rail across the length of the housing. Further, the cut out speeds assembly by reducing overall tab travel, thus showing a new and unexpected result.

Further, Applicants have added the limitation of at least one side bend comprising at least one cut out to the independent claim 1 which is not found in the Mejia reference. As such, the claimed limitation is not rendered obvious by Mejia. Hence, the rejection of Claims 1 – 10 under 35 U.S.C. 103(a) is improper and should be withdrawn. As such, the Claims should proceed to allowance.

Referring to claim 7, the Examiner states that Mejia discloses a transverse lug with holes 16 through which fastening means may be inserted to fit the lug in place relative to the T-ribs. Mejia, column 3, lines 61 – 64. Further, in the office action, the Examiner states that “[t]he artisan would be sufficiently skilled to select an appropriate fastening means, such as screw or

brads, having soft tips capable of being bent downward". The Applicants disagree with the Examiner's assertion. Moreover, there is no motivation or suggestion provided in Mejia to use fastening means having soft tips capable of bending downwards. Further, the Mejia patent does not describe or suggest any type of a post for coupling to at least one lance when the lance is (or lances are) bent downward toward a housing, as required by the independent Claim 1; and Claims 2, 3 and 5 – 10 add limitations to what is believed to be an allowable Claim (Claim 1), thus a rejection under 35 U.S.C. 103(a) is improper and should be withdrawn. As such, the Claims should proceed to allowance.

In any case, Applicant's Claims require at least one side bend having at least one cut out. Therefore, Applicants believe that the subject application, as amended, is in condition for allowance. Such action is earnestly solicited by the Applicants.

The Commissioner is hereby authorized to deduct any additional fees arising as a result of this response, including any fees for Extensions of Time, or any other communication from or to credit any overpayments to Deposit Account No. 50-2117.

It is submitted that the Claims clearly define the invention, are supported by the specification and drawings, and are in a condition for allowance. Applicants respectfully request that a timely Notice of Allowance be issued in this case. Should the Examiner have any questions or concerns that may expedite prosecution of the present application, the Examiner is encouraged to telephone the undersigned.

Respectfully submitted,

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